

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

March 22, 2012

In the Matter of J. A. DAVIS, Minor.

No. 306125

Genesee Circuit Court

Family Division

LC No. 09-125854-NA

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Before: O'CONNELL, P.J., and SAWYER and TALBOT, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to their child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Before terminating a respondent's parental rights, the trial court must make a finding that at least one of the statutory grounds under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). The trial court must then order termination of parental rights if it also finds that termination is in the child's best interests. MCL 712A.19b(5). This Court reviews the trial court's decision for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009); MCR 3.977(K). Clear error exists "if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

The trial court did not clearly err in finding that the statutory grounds for termination of parental rights were established by clear and convincing evidence. The condition that led to petitioner's intervention was respondents' inability to maintain a suitable home environment. Both respondents are cognitively impaired, and respondent father suffers from bipolar disorder. At the time of the child's removal, respondents' home was filthy, smelled of cat urine, and had dirt and cat feces scattered about. Dirty, moldy dishes were on the kitchen stove top, counter

top, and piled high in the sink. A swarm of gnats had invaded the kitchen. There was exposed wiring in the home. The home flooring was covered with trash, clothing, cigarette butts, and other unidentified debris. Respondents themselves had serious personal hygiene issues. The child, then three months old, did not have a bed and was observed sharing a bed with the great-grandmother, who was smoking cigarettes while on oxygen. A pillow that was used as a bottle prop for feeding covered the child's face.

Petitioner provided respondents with family reunification services to correct their parenting skills deficits and remedy the home sanitation and personal hygiene issues. Services were tailored to address respondents' cognitive challenges and included individual therapy for respondent mother, medication therapy to help respondent father with anger management, Community Mental Health (CMH) case management services, psychiatric and psychological evaluations, twice weekly parenting time, infant mental health services, life education/life skills training, and weekly in-home parent aide assistance.

Despite respondents' full participation in services, there was ample evidence that they did not sufficiently benefit. Respondents consistently failed to internalize services, develop the skills necessary to remedy the conditions that led to the child's removal, and prioritize the child's needs. They were unable to understand what was developmentally appropriate for the child. Even if respondent mother showed some limited understanding, she failed to follow through with essential tasks. After 15 months of intensive services, respondents needed to be prompted to change the child's diaper during visitation. They were easily distracted and did not notice the child leaving the visiting room. Within four months of the termination hearing, respondents did not know how often they would bathe the child or whether they would brush his teeth if he were returned to their care. According to the infant mental health specialist, respondents' expectation was that the young child would be able to parent himself. It is undisputed that respondents loved their child and that they would not deliberately harm him. However, the record was clear that the child would be physically and emotionally harmed if returned to their care because of their parenting deficits.

Moreover, throughout the proceedings, respondents' home continued to be deplorable and unsafe for a child. Parenting visits were cancelled because respondents' seriously poor grooming (strong body odors, head lice, ring worm, flea and ant bites, rashes, and a staph infection) posed health risks to the child. In addition, respondents' financial circumstances were deficient. Utility shut-off notices were frequent as was the lack of food for two or three days at the end of the month. Clearly, respondents had difficulty with their own needs and thus would not be able take care of the child's needs. The trial court properly concluded that there was no reasonable likelihood that they would be able to resolve the issues that led to the child's removal within a reasonable time considering the child's age.

Respondents maintain that they made tremendous efforts in addressing the problems that led to the child's removal. Respondent mother learned how to properly keep the house clean and, at the time of termination, both respondents were showering regularly. They also contend that they acquired appropriate parenting skills and were able to recognize and respond appropriately to some of the safety concerns. They had acquired a suitable home and signed a long-term lease.

These arguments are meritless. There is no question that respondents did nearly all that was asked of them under their treatment plans. However, it is well established that compliance with a treatment plan alone does not suffice. A parent must benefit from services and improve parenting skills to the point where the child would not be at risk in the parent's custody. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). The trial court correctly concluded that respondents had not sufficiently benefited from services to provide proper care for their child. Respondents' quarterly progress was assessed as poor throughout the proceedings. All of the service providers agreed that respondents' issues of an unsanitary home environment and poor hygiene were not remedied after months of services. The evidence that respondents had acquired a new home two weeks before the termination hearing was unpersuasive. Respondent father received SSI benefits, and respondent mother was unwilling or unable to work because she claimed respondent father would be "lost" without her. Respondents used respondent mother's Pell grant money to buy food and to pay the deposit and first month's rent on the new home. The trial court reasonably concluded that using a college grant was not a long-term solution to respondents' persistent financial instability. Photographs admitted at the termination hearing showed the condition of the new home before or at the time respondents moved in and thus were not germane to the issue of their ability to maintain a safe and appropriate home on a regular basis. The infant mental health specialist, after having more than 50 parenting visits with respondents and their child, opined that the child's prognosis would be "dismal" if he were reunified with respondents. There was compelling testimony that respondents were unable to care for themselves and that the child would be harmed if returned to their care.

The court also properly concluded that termination of respondents' parental rights was in the child's best interests. MCL 712A.19b(5). The evidence is unequivocal that respondents loved their child and desired to properly care for him. However, the child's bond with respondents was tenuous, and there was no evidence respondents would be able to meet the child's physical and emotional needs and provide a safe and stable environment in the near future. The child is young and needs permanency, which respondents were unable to provide.

Affirmed.

/s/ Peter D. O'Connell

/s/ David H. Sawyer

/s/ Michael J. Talbot